REMARKS

Claims 1-4, 6-15, 26-29, 31-34, 54, 65, and 66 are pending in the application and have been examined. The present office action is addressed as follows.

Claim 65 stands rejected under 35 U.S.C. § 102(b) as being anticipated by Givens (U.S. Patent No. 6,681,530). Applicant traverses this rejection because Givens fails to disclose a diverter body shaped to surround a generally cylindrical post.

Givens merely discloses various pre-formed flashings that are made up of generally planar panels. For example, Givens discloses that the panels may not be absolutely flat due to some warping as a result of the manufacturing process, but that the panels are sufficiently flat to justify use of the term (See Givens, col. 6, lns. 6-9). The Examiner's cited portions of Givens disclose four generally planar panels (i.e., as shown in Fig. 8, vertical panels 116 and 117, and angled panels 119 and 121). However, Givens is silent regarding any flashing shaped to surround and fit closely to a generally cylindrical post, as recited in the claim. Accordingly, applicant respectfully requests withdrawal of the rejection.

Claims 1-4, 6-15, 26-29, 31-34, and 54 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Givens. Applicant traverses this rejection because Givens fails to disclose or suggest that a width of an angled section of a diverter is substantially larger than a width of a vertical section of the diverter.

Givens discloses a flashing that has vertical height T of eight inches (See col. 5, lns. 54-57). Additionally, Givens teaches that a distance W from an edge 27b to

an edge 36 is four inches. That is, Givens discloses that the vertical height T of the flashing is greater than the length W of the flashing. Thus, as noted by the examiner, Givens does not disclose or suggest that a width of an angled section is substantially larger than a width of a vertical section.

Moreover, the ratio of widths is not merely an obvious design choice. As discussed in the present specification, the diverter includes a vertical section and an angled section. The ratio of the width of the vertical section to the width of the angled section is between 1:1 and 1:10. As shown in Fig. 4 and recited in claims 3 and 4, an example of a diverter falling within this range has a vertical section with a width of 10 inches and an angled section with a width of 30 inches. The ratio helps to ensure that water is diverted a suitable distance away from a house's foundation, while remaining relatively low-profile and unobtrusive. In addition it would not have been obvious to modify the roof flashing disclosed in Givens according to the ratio of widths taught in the present specification. Such a modification would likely cause difficulty when installing the roof flashing, as the flashing would extend to cover an excessive number of shingles.

Thus, because the flashing disclosed by Givens includes a vertical height T that is smaller than the distance W, and because the claimed ratio of widths is more than an aesthetic design choice, applicant respectfully requests withdrawal of the rejection.

Claim 66 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Givens in view of Mayle (U.S. Patent No. 6,199,326). Claim 66 depends from claim 65, and therefore includes all the features of claim 65, plus additional features.

Accordingly, applicant respectfully requests that the rejection of claim 66 be withdrawn in light of the above remarks directed to claim 65, and because Mayle does not remedy the deficiencies identified with respect to the rejection of claim 65.

Moreover, Mayle fails to disclose or suggest a through-cut disposed on both the vertical portion and the angled portion. Mayle discloses that a fitment 40 includes both a top membrane portion 80 and a base membrane portion 90. The top membrane portion 80 is divided into quadrants 81-84, as shown in Figs. 4a and 4b. Assuming, *arguendo* that the quadrants 81 and 82 correspond to the vertical portion in the present invention, and that quadrants 83 and 84 correspond to the angled portion, Mayle discloses only that a cutout 86 separates quadrants 83 and 84, and that the cutout extends to the center of the top membrane portion 80. That is, Mayle fails to disclose a cutout that extends to the quadrants 81 and 82. Because Mayle does not disclose or suggest a through-cut in both the angled portion and the vertical portion, as recited in claim 66, applicant again requests withdrawal of the rejection.

For all of the foregoing reasons, applicant submits that this Application is in condition for allowance, which is respectfully requested. The Examiner is invited to contact the undersigned attorney if an interview would expedite prosecution.

Respectfully submitted,

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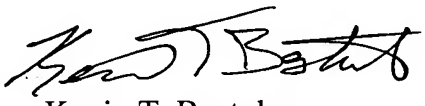
By 
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